

BEFORE THE DEPARTMENT OF PUBLIC  
HEALTH AND HUMAN SERVICES OF THE  
STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF ADOPTION AND
Rules I through IV and amendment of	)	AMENDMENT
ARM 37.114.101, 37.114.201,	)	
37.114.203, 37.114.204, 37.114.205,	)	
37.114.312, 37.114.313, 37.114.314,	)	
37.114.315, 37.114.503, 37.114.504,	)	
37.114.506, 37.114.509, 37.114.510,	)	
37.114.515, 37.114.516, 37.114.518,	)	
37.114.519, 37.114.521, 37.114.522,	)	
37.114.525, 37.114.527, 37.114.528,	)	
37.114.530, 37.114.534, 37.114.537,	)	
37.114.539, 37.114.540, 37.114.542,	)	
37.114.548, 37.114.555, 37.114.557,	)	
37.114.558, 37.114.560, 37.114.561,	)	
37.114.563, 37.114.565, 37.114.566,	)	
37.114.568, 37.114.570, 37.114.573,	)	
37.114.575, 37.114.577, 37.114.579,	)	
37.114.588, 37.114.589, 37.114.591,	)	
37.114.592, 37.114.595, 37.114.1002,	)	
and 37.114.1005 pertaining to the	)	
control of communicable diseases	)	

TO: All Interested Persons

1. On June 22, 2006, the Department of Public Health and Human Services published MAR Notice No. 37-384 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules, at page 1512 of the 2006 Montana Administrative Register, issue number 12.

2. The department has adopted new rules I (37.114.514), II (37.114.578), III (37.114.581), and IV (37.114.105) as proposed.

3. The department has amended ARM 37.114.101, 37.114.201, 37.114.203, 37.114.205, 37.114.312, 37.114.313, 37.114.315, 37.114.503, 37.114.504, 37.114.506, 37.114.509, 37.114.510, 37.114.515, 37.114.516, 37.114.518, 37.114.519, 37.114.521, 37.114.522, 37.114.525, 37.114.527, 37.114.528, 37.114.530, 37.114.534, 37.114.537, 37.114.539, 37.114.540, 37.114.542, 37.114.548, 37.114.555, 37.114.557, 37.114.558, 37.114.560, 37.114.561, 37.114.563, 37.114.565, 37.114.566, 37.114.568, 37.114.570, 37.114.573, 37.114.575, 37.114.577, 37.114.579, 37.114.588, 37.114.589, 37.114.591, 37.114.592, 37.114.595, 37.114.1002, and 37.114.1005 as proposed.

4. The department has amended the following rules as proposed with the  
Montana Administrative Register 37-384

following changes from the original proposal. Matter to be added is underlined. Matter to be deleted is interlined.

37.114.204 REPORTS AND REPORT DEADLINES (1) through (5) remain as proposed.

(6) In the event of a chickenpox outbreak, the local health officer may elect to report a weekly summary count of suspected and confirmed cases in lieu of individual case reports. Individual case reports will resume when the health officer determines the outbreak has ended.

AUTH: 50-1-202, 50-17-103, 50-18-105, MCA

IMP: 50-1-202, 50-17-103, 50-18-102, 50-18-106, MCA

37.114.314 INVESTIGATION OF A CASE (1) remains as proposed.

(2) If the local health officer finds that the nature of the disease and the circumstances of the case or outbreak warrant such action, the local health officer must:

(a) examine or ensure that a ~~physician~~ health care provider examines any infected person in order to verify the diagnosis;

(b) through (3) remain as proposed.

AUTH: 50-1-202, 50-2-118, 50-17-103, 50-18-105, MCA

IMP: 50-1-202, 50-2-118, 50-17-103, 50-17-105, 50-18-102, 50-18-107, 50-18-108, MCA

5. The department has thoroughly considered all commentary received. The comments received and the department's response to each follow:

#### ARM 37.114.204 REPORTS AND REPORT DEADLINES

COMMENT #1: A local health department asserts that it would be unrealistic to report single cases of chickenpox in that county, as it would be time consuming, particularly in circumstances where there is an outbreak.

RESPONSE: The department disagrees that it would be unrealistic to report single cases of chickenpox, in general. However, the department does agree that it could be difficult for local health officers to make individual case reports of chickenpox during an outbreak. The department will amend the rules to allow local health officers to report cases of chickenpox during an outbreak by providing a weekly summary count of suspected and confirmed cases. The department will add a new (6) to ARM 37.114.204 to provide an exception.

#### 37.114.314 INVESTIGATION OF A CASE

COMMENT #2: A local health officer inquires, regarding ARM 37.114.314(2), whether the requirement that a physician must examine an infected person would preclude an examination by a nurse practitioner or a physician assistant, and

whether the requirement should be modified to allow examination by a nurse practitioner or a physician assistant.

RESPONSE: Based on the definition of "physician" in ARM 37.114.101(25), the department agrees that the rule could be construed to allow examination only by a physician. The department further agrees that the preferable standard would allow other licensed health care providers who are competent to perform such examinations to do so. Therefore, the department will amend the rule to allow examinations by "health care providers", which term is already defined at ARM 37.114.101(12). The department will modify ARM 37.114.314(2)(a) by striking the term "physician" and replacing it with the term "health care provider".

/s/ Denise Pizzini  
Rule Reviewer

/s/ Joan Miles  
Director, Public Health and  
Human Services

Certified to the Secretary of State August 28, 2006.